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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,338	10/12/2001	Santhana Krishnamachari	US 010526	9237

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER

LEE, Y YOUNG

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/976,338	<b>Applicant(s)</b> KRISHNAMACHARI ET AL.	
	<b>Examiner</b> Y. Lee	<b>Art Unit</b> 2613	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/11/05 has been entered.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4-17, and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Radha et al (6,292,512) for the same reasons as set forth in Section 5 of the previous office action, dated 7/27/04.

Radha et al, in Figures 2 and 6-11, discloses a scalable video coding system that is the same system for transmitting and decoding encoded video signals as specified in claims 1, 2, 4-17, and 19-21 of the present invention, comprising a system for partitioning encoded video data into a plurality of streams (42, 51), a system for determining a priority for each of a plurality of streams of encoded video data 48; and a system for assigning a variable modulation rate 55 to each stream of encoded video data based on the determined priority 48; wherein a higher modulation rate ( $R - R_{BL}$ ) is

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assigned to lower priority streams EL and a lower modulation rate ( $R_{BL}$ ) is assigned to higher priority streams BL.

With respect to claims 2, 4-17, and 19-21, Radha et al also discloses a system that ensures that an average modulation rate substantially conforms to a predetermined target rate for the plurality of streams (Fig. 10); partitioning the encoded video data based on a criteria selected from the group consisting of distinctions between frame type (Fig. 2), header and non-header data (e.g. MPEG headers), base BL and enhancement layer EL streams present in a scalable coded video, and distinctions in video packets containing data corresponding to at least one macroblocks (MPEG-4); wherein the priority of each stream is determined based on an MPEG frame type, and wherein streams containing I frames are determined to have a relatively higher priority than streams containing P frames and B frames (Fig. 2); at least one macroblock is determined based on motion and texture information contained in the macroblock (e.g. MPEG-4 syntax); and assigning a relatively higher priority to MPEG header data (base layers) than non-header MPEG data (enhancement layers).

### ***Response to Arguments***

3. Applicant's arguments filed 2/11/05 have been fully considered but they are not persuasive. Applicant asserts on page 7 of the Remarks that Radha et al fails to disclose modulation rates. However, Figures 6 and 11 of Radha et al illustrate the concept of such rates at which data is transmitted 43.

Regarding applicant arguments on pages 7 and 8 of the Remarks that Radha et al discloses encoding bit rates in the exact opposite manner at which modulation rates

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are assigned according to the present invention, it was stated in the previous office action that Radha et al discloses both encoding and modulation rates in Figure 6. It may be true that Radha et al disclose encoding bit rates differently from modulation rates as that claimed by the Applicant. However, examiner does not rely on the encoding bit rate assignment of Radha et al to teach such capabilities because modulation rates are already disclosed in Radha et al.

Applicant also asserts on page 8 of the Remarks that Radha et al fails to disclose claim 11. However, the scalable video coding system of Radha et al inherently includes a low modulation rate  $R_{\min}$  below the coding bit rate  $R_{BL}$  and a high modulation rate  $R_{\max}$  above the coding bit rate  $R_{BL}$ .


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y. Lee whose telephone number is (703) 308-7584.

The examiner can normally be reached on (703) 308-7584.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (703) 305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Y. Lee  
Primary Examiner  
Art Unit 2613

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